

1  
2  
3  
4 E-FILED on 9/30/05  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SONISTA, INC.,

Plaintiff,

v.

DAVID HSIEH, TECHPAC, INC., PIXA, INC.,

Defendants.

No. C-04-04080 RMW

ORDER GRANTING DEFENDANT DAVID HSIEH'S *EX PARTE* APPLICATION FOR EXTENSION OF TIME

[Re Docket Nos. 93, 95, 98]

Plaintiff Sonista Corp. ("Sonista") filed a complaint against David Hsieh ("Hsieh"), Techpac, Inc. ("Techpac"), and Pixa, Inc. ("Pixa") on September 27, 2004 alleging, among other things, infringement of its DVONE mark. For approximately a year, all defendants have been represented by the same counsel, John McIntyre of Popelka, Allard. On September 8, 2005, Mr. McIntyre notified this court that he was withdrawing from representation of Hsieh.

On September 21, 2005, Hsieh, through newly-retained counsel, filed an *ex parte* application requesting that the schedule for the upcoming motions for summary judgment be pushed back at least two months, that discovery be extended for at least three months, and that the trial date be pushed back at least four months. The plaintiff opposed changing the date for the summary judgment hearing but joined Hsieh's request to continue the trial date and extend discovery. Conversely, the corporate defendants opposed changing the

1 trial date and extending discovery, but consented to brief extension of time to respond to the pending motions  
2 for summary judgment.

3 While extremely reluctant to delay the upcoming trial at such a late day, the court will grant Hsieh's  
4 request for additional time to prepare. It is hereby ordered that Hsieh may file his opposition to plaintiff's  
5 motion for summary judgment on October 28, 2005, and any replies shall be filed by November 4, 2005; that  
6 the summary judgment motion hearing set for October 14, 2005, is continued until November 18, 2005; that  
7 discovery will close on October 14, 2005; that the pretrial conference will be held on December 15, 2005;  
8 and that the trial date of November 7, 2005, is continued until January 9, 2006.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DATED: 9/30/05

/s/ Ronald M. Whyte  
RONALD M. WHYTE  
United States District Judge